

EXHIBIT 13

NOTICE OF OPT OUTS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

In re Payment Card Interchange Fee and	:	No. 05-MD-01720 (JG)(JO)
Merchant Discount Antitrust Litigation	:	
	:	

I. PRELIMINARY STATEMENT REGARDING OPT-OUTS

The Notice of Settlement the class received regarding the Definitive Settlement Agreement ("Settlement Agreement") was confusing regarding the substantive rights of absent class members and whether these substantive rights would be impaired by the binding effect of a judgment entered in this case. As stated in the Class Notice and Settlement Agreement, businesses would release future claims because of the form of the release contained in the Settlement Agreement and notice plan. In particular, but not limited to: Settlement Classes, paragraphs 33, subparts g-h, and 68, subparts g-h of the Settlement Agreement waive future claims as published in the Notice of Settlement to the class.

All the businesses opting out by way of this notice of opt-out feel compelled to do so in an attempt to preserve future claims against Defendants involving Defendants' Rules. Both of the settlement classes described in the Notice of Settlement waive these future claims, but it is presently unclear whether this Court will approve that waiver. These potential Class Members do not believe a waiver of future claims is valid under either Rule 23(b)(2) or 23(b)(3). The businesses identified in this Notice are opting out in case the Court allows the waiver to remain a part of the Rule 23(b)(3) settlement. If the Court determines that the waiver of future claims made under Rule 23(b)(2) is invalid, these businesses would still sacrifice the right to bring future claims against Defendants by not opting out of the Rule 23(b)(3) class.

Given the uncertainty surrounding this settlement, the unclear and confusing class notice, and with no way of knowing what this Court will ultimately approve, these businesses feel forced to opt-out of the Rule 23(b)(3) class at this time to preserve their substantive rights and not be bound by a judgment entered in this case. However, depending upon the settlement structure ultimately sanctioned by this Court, the analysis surrounding the opt-out decision could change dramatically. If, for instance, the Court allows the waiver of future claims to remain a part of both the 23(b)(2) and 23(b)(3) releases – such that opting out of the Rule 23(b)(3) class will not, in any event, allow these businesses to seek future redress from Defendants under their Rules – these businesses may very well determine that it makes no sense to opt out of the Rule 23(b)(3) class. The same conclusion might follow should the Court *disallow* the relinquishment of future claims for both classes. In light of this confusing scenario, these businesses respectfully request that new notice be delivered to the class, with a new opportunity to opt-out or reverse an earlier decision to opt out, after the Court definitively passes upon the terms of the settlement and its binding effect on absent class members for both the 23(b)(2) and (b)(3) Settlement Classes as to future claims. Thus, in sum, the following businesses conditionally opt-out.

To repeat, the businesses identified in this notice are now opting out because they feel constrained to do so as the only possible way they might somehow rescue their ability to bring future claims against the Defendants.

II. OPT-OUTS

I, Thomas P. Thrash, Phillip Duncan and Jay Breakstone, attorneys for the following merchants, want to exclude them from the Cash Settlement Class of the settlement in the case called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*:

- PPT Inc., d/b/a Graffiti's Restaurant – Little Rock, Arkansas

Taxpayer ID Number: xxxx

Business Locations: 7811 Cantrell Rd. #6
Little Rock, AR 72227

1000 West Second Street
Little Rock, AR 72201

- Greenhaw's, Inc. – Little Rock, Arkansas

Taxpayer ID Number: xxxx

Business Locations: 10301 N. Rodney Parham Rd.
Little Rock, AR 72227

- Don's Pharmacy, Inc. – Little Rock, Arkansas

Taxpayer ID Number: xxxx

Business Locations: 8609 W. Markham
Little Rock, AR 72205

We are authorized to file opt-outs for exclusion from the Rule 23(b)(3) Settlement Class for the businesses identified in this Notice, and our personal information it as follows:

Name: Thomas P. Thrash, Esq.
Position: Attorney
Name of Merchants: See above
Phone No.: (501) 374-1058
Address: 1101 Garland Street
Little Rock, AR 72201

Name: Philip Duncan, Esq.
Position: Attorney
Name of Merchants: See above
Phone No.: (501) 228-7600
Address: 900 S. Shackleford, Suite 725
Little Rock, AR 72211

Name: Jay L.T. Breakstone, Esq.
Position: Attorney
Name of Merchants: See above
Phone No.: (516) 723-4620
Address: 6 Harbor Park Drive
Port Washington, NY 11050

Our position at the businesses that gives us authority to exclude them from the Cash Settlement Class is as follows: Legal counsel for all businesses opting out via this Notice. The telephone numbers for each Class Member is Counsel's telephone numbers above.

Respectfully Submitted,

s/ Jerrold S. Parker

Jerrold S. Parker
Jay L.T. Breakstone
Parker Waichman, LLP
6 Harbor Park Drive
Port Washington, NY 11050
Telephone: (516)-723-4620
jbreakstone@yourlawyer.com
jerry@yourlawyer.com

Thomas P. Thrash, ABN #80147
Marcus N. Bozeman, ABN #95287
Thrash Law Firm, P.A.
1101 Garland Street
Little Rock, Arkansas 72201
Telephone: 501-374-1058
Facsimile: 501-374-2222
tomthrash@sbcglobal.net
bozemanmarcus@sbcglobal.net

Phillip Duncan
Richard Quintus
Duncan Firm, P.A.
900 S. Shackleford, Suite 725
Little Rock, AR 72211
Telephone: (501) 228-7600
phillip@duncanfirm.com
richard@duncanfirm.com

CERTIFICATE OF SERVICE

On this 28th day of May, the above and foregoing has been sent by United States mail to the following:

Payment Card Interchange Fee Settlement
P.O. Box 2530
Portland, OR 97208-2530

Alexandra S. Bernay
Bonny E. Sweeney
Robbins, Geller, Rudman & Dowd, LLP
655 W. Broadway, Suite 1900
San Diego, CA 92101

Wesley R. Powell
Wilkie, Farr & Gallagher, LLP
787 Seventh Ave.
New York, NY 10019

K. Craig Wildfang
Robins, Kaplan, Miller & Ciresi, LLP
2800 LaSalle Plaza
800 LaSalle Ave.
Minneapolis, MN 55402

H. Laddie Montague, Jr.
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103

Matthew A. Einstein
Arnold & Porter, LLP
555 Twelfth Street NW
Washington, DC 20004

Peter E. Greene
**Skadden, Arps, Slate
Meagher & Flom, LLP**
4 Times Square
New York, NY 10036

s/ Jerrold S. Parker

Jerrold S. Parker